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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/625,531

07/24/2003

Toshio Harima

A-7942.RNFMP/bh

8157

7590

05/04/2006

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EXAMINER

BUMGARNER, MELBA N

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/625,531
Filing Date: July 24, 2003
Appellant(s): HARIMA, TOSHIO

MAILED
MAY 04 2006
Group 3700

Christopher J. McDonald
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 14, 2006 appealing from the Office action mailed January 25, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. The Amendment After Final Rejection of April 11, 2005 is entered for purposes of appeal.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: the following ground of rejection is not presented for review on appeal, because it has been withdrawn by the examiner. Rejection under 35 USC 112, second paragraph of claims 1-10 is withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-5, 7, 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Harima (4,725,230). Harima discloses an orthodontic wire retainer comprising a first metal wire 11, a second metal wire 12, a pair of third metal wires 13 (figure 1, column 1 line 62), the third metal wires attached to the first and second metal wires to form an annular bridge 14, and a wire rest 15, as circled below, extending from the first wire, the wire rest spaced from the end of the first wire. Figure 1 shows a wire clasp that is W-shaped and the wire rest is L-shaped. Figure 1 shows the wire rest having a first section attached to the first wire and extending toward the second wire. Figure 1 shows a second wire rest on the opposite side of the retainer from the (first) wire rest with the same configuration.

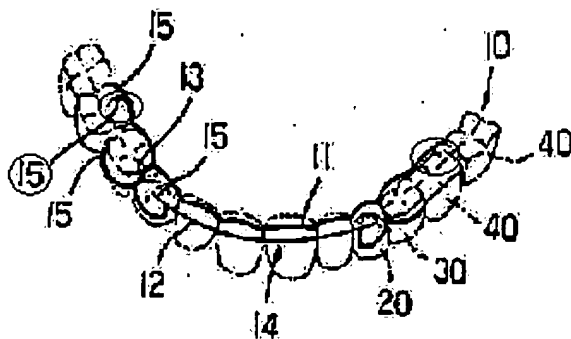


FIG. 1

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harima. Harima discloses an orthodontic wire retainer that shows the limitations as described above and the wire rest having a second section attached to the first section; however, Harima does not show the second section extending toward the third wire. It would have been obvious to one of ordinary skill in the art at the time the invention was made as to the orientation of the second

Art Unit: 3732

section of the wire rest to further exhibit anti-sinking effect. Note that specification states (column 3 line 2) “ . . .said rest (15) may exhibit the anti-sinking effect with respect to at least one premolar (30) or molar (40) externally of said annular bridge (14).

(10) Response to Argument

Appellant argues that Harima does not have a wire rest meeting the limitation of claim 1. The examiner disagrees as described and shown in figure 1 above. The prior art discloses wire rests for the purpose of preventing sinking of the wire retainer with respect to the dental arch. It is noted that Appellant's drawings are drawn with simplicity, making the structural description subject to broad interpretation by the examiner, such as when the appellant describes the wire clasp as “W-shaped” which is shown in the application drawings as wide unequal upside-down humps to make a “W-shape”. Perhaps the prior art shows the wire rest more in the shape of a “J”, but it is clearly spaced from the end of the first wire as defined by Appellant and at a location in the Evidence Appendix that can be applied to the prior art figure. The prior art also shows that, if the first metal wire is laid along the posterior surface of a dental arch (column 1 line 64) and the wire rest extends from the first wire and rests on a top surface of the dental arch as shown on figure 1, the wire rest would have to exhibit a change in dimensional direction (i.e. extending upward from the back of a tooth and curving forward to the top of the tooth) which may be described as “L-shaped”.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 3732

For the above reasons, it is believed that the rejections should be sustained.

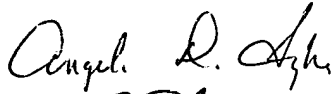
Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Melba Bumgarner".

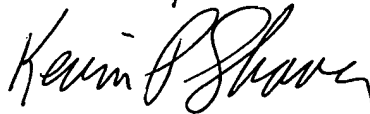
Melba Bumgarner

Conferees:

Angela Sykes

A handwritten signature in cursive script, appearing to read "Angela D. Sykes".

Kevin Shaver

A handwritten signature in cursive script, appearing to read "Kevin Shaver".